

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
*Northern Division*

DINO J. KALANDRAS \*

Plaintiff, \*

v. \* CIVIL ACTION NO.: WMN11cv3642

BRAWNER BUILDERS, INC. \*

Defendant. \*

\* \* \* \* \*

ANSWER TO COMPLAINT

Defendant, Brawner Builders, Inc. (Brawner Builders), by and through its undersigned counsel, in answer to the Complaint filed herein by Plaintiff, Dino J. Kalandras (Mr. Kalandras), states as follows:

1. Answering paragraph 1 of the Complaint, Brawner Builders states that this paragraph contains jurisdictional and venue allegations as to which it is not required to respond.
2. Answering paragraph 2 of the Complaint, Brawner Builders states that this paragraph contains jurisdictional allegations as to which it is not required to respond.
3. Answering paragraph 3 of the Complaint, Brawner Builders admits that it employed Plaintiff, but denies the remaining allegations therein.
4. Answering paragraph 4 of the Complaint, Brawner Builders denies the allegations therein.
5. Answering paragraph 5 of the Complaint, Brawner Builders denies the allegations therein, including those allegations listed in subparagraphs "a" through "i" of paragraph 5.

**NEGATIVE AND AFFIRMATIVE DEFENSES**

6. The Complaint fails to state a claim or claims against Brawner Builders for which relief can be granted.

7. Brawner Builders denies liability to Plaintiff generally.

8. Plaintiff's claims are barred or limited by his assumption of the risk, contributory negligence, or comparative fault.

9. Plaintiff had the last clear chance to avoid the damages alleged in the Complaint.

10. Plaintiff's claims are wholly or partly barred by waiver or estoppel, payment, and accord and satisfaction.

11. Plaintiff's claims are barred or limited by his own failure to mitigate damages.

12. Plaintiff's injury and damages, if any, were caused by a pre-existing condition of his person and are not causally related to the occurrence alleged in the Complaint or to his employment by Brawner.

13. Brawner Builders denies that the vessel at issue was unseaworthy.

14. Brawner Builders invokes the provisions of 46 U.S.C. §§ 30501-30502, under which Brawner Builders is entitled to and claims exoneration from or limitation of its liability, if any, to Plaintiff and any other claimants, to the value of the vessel at issue following the alleged occurrence.

15. Brawner Builders is entitled to an offset of any maintenance and cure that it furnished to Plaintiff under the McCorpen doctrine due to Plaintiff's willful concealment of his past medical history involving his back. Plaintiff: (1) willfully concealed prior injuries or medical conditions involving his back; (2) the prior injuries or medical conditions involving his back would have been material to Brawner Builders' decision to hire Plaintiff; (3) the prior

injuries or medical conditions involving Plaintiff's back are causally linked to the injuries alleged by Plaintiff; and (4) Brawner Builders would not have hired Plaintiff had it known of his prior injuries or medical conditions related to his back.

16. Brawner Builders incorporates by reference all other defenses available to it under Maryland law and maritime law at the time of the alleged incident.

WHEREFORE, Defendant, Brawner Builders, Inc., prays that the Complaint filed herein by Plaintiff, Dino J. Kalandras, be dismissed by this Honorable Court, that Brawner Builders, Inc. be awarded an offset for the maintenance and cure it has furnished to Plaintiff, its attorneys' fees and costs, and that this Honorable Court grant such other and further relief as the justice of this cause may require.

Respectfully submitted,

/s/  
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*Attorneys for Defendant, Brawner Builders, Inc.*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY, that on this *17<sup>th</sup>* day of *February*, 2012, a copy of the foregoing Defendant's Answer to Complaint was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system on:

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/s/  
JoAnne Zawitoski